

# DAILY REPORT

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## Brain Injury Yields \$3.5M Verdict

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A WOMAN WHOSE car was crushed by a produce truck in 2012 won \$3.5 million in DeKalb County State Court despite not having any visible injuries.

The verdict was 10 times what the defense suggested the case was worth at trial, and 55 times more than her medical bills.

Lawyers for plaintiff Jewel Wicker said they anticipated explaining the nature of her mild traumatic brain injury to a jury would be difficult.

“It’s one of the things we said to the jury in opening statements and in voir dire—she doesn’t appear to be somebody with an injury,” said Alwyn Fredericks, a partner at Cash, Krugler & Fredericks. “It’s not like she has a broken leg or her head was split open. Her injury was internal.”

The wreck occurred on the morning of July 22, 2012. Wicker, who was an 18-year-old college student, was on her way to church. She had stopped her 2002 Honda Accord at a red



REBECCA BREYER

**Shane Bartlett and Alwyn Fredericks, from left**, represented a woman injured in a crash with a produce truck. Fredericks said the effects of her mild traumatic brain injury were difficult to explain to the jury.

light on Camp Creek Parkway at the intersection with Old Fairburn Road. Behind her drove Parker Owens in a commercial truck belonging to his parents’ company, First Class Produce.

Moments later, emergency responders were using the jaws of life to extract Wicker from her car, which was crumpled beneath the produce truck, her lawyers said.

Owens told police he applied his brakes but nothing happened.

Wicker’s lawyers noted that the police report indicated the truck did not leave skid marks, and police cited Owens for running the red light.

“Ultimately it was proven that there was nothing wrong with the brakes,” Fredericks said.

To explain the damage done to her brain by the impact of the crash, Fredericks and his co-counsel, Shane Bartlett, relied on two expert medical witnesses who had treated and tested Wicker. They also used several visual

aids, including diagrams of the brain and an animated anatomy video.

To give jurors an even clearer picture—and perhaps an emotional connection—Fredericks compared Wicker’s brain injury to shaken baby syndrome.

“There is no broken skull. It’s not going to show up on a CT scan. But there is something wrong with that brain,” Fredericks told jurors during his opening statements. As a result of the wreck, Wicker experiences headaches three to five times a week, she has trouble with her memory, she has constant ringing in her ears, and she is abnormally sensitive to light, her lawyers said.

The lead defense attorney for the truck driver, his employer and their insurance company never disputed that the driver caused the wreck or that Wicker was hurt. But during his closing arguments, Fain, Major & Brennan partner Mitchel Evans, asked the jury to scrutinize the credibility of the plaintiff’s witnesses and their interest in the outcome of the case.

“You heard from a number of Ms. Wicker’s family and friends [about] how much they were in touch with her before and after this accident, how much they called her, how well they knew her, how they had opportunity to see the changes in her. But almost to a person none of them knew that she had been seeing a counselor almost a year before the July 2012 accident for issues related to anxiety, concentration problems, difficulty sleeping. They didn’t know that about her,” Evans said, then questioned how

accurately they were able to assess Wicker’s situation.

Evans also tried to cast doubt on the seriousness of Wicker’s injuries and suggested she had greatly recovered. To support his arguments, Evans alluded to blog posts Wicker published within days of the accident, her return to baby-sitting within six months of the wreck and her success as a Georgia State University graduate.

He also said jurors should be skeptical of Wicker’s testimony about her career goals—which the jury would assess when determining damages.



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—Alwyn Fredericks,  
plaintiff’s lawyer,  
in opening remarks

Wicker said during trial that she had wanted to be a broadcast journalist but could not pursue that goal because of her extreme light sensitivity. Evans argued in closing that Wicker had changed her story from before trial, when she said her dream was to be a writer, in order to ask the jury for more money.

“At the end of the day, when you render a verdict, it’s going to be a verdict in favor of Ms. Wicker,” Evans acknowledged during his closing. “The goal is for it to speak the truth about what is fair compensation for the injuries and damages Ms. Wicker suffered.”

Evans could not be reached for comment after the trial.

During pretrial negotiations, American Family Insurance offered to settle the case for \$150,000; the day before trial, the insurer offered \$200,000, the plaintiff’s lawyer said.

During his closing, Evans asked the jury to award Wicker a total of \$300,000 to \$400,000, including “every penny” of her nearly \$63,500 in past medical bills. But he cautioned the jury that the evidence did not support her full pain and suffering claim, calling it “fundamentally unfair” to the defendants.

At trial, Fredericks told the jury that Evans’ suggested verdict amount was “a slap in the face.” His assessment of his opponent after trial was more amicable.

“Mr. Evans was a gentleman and a pleasure to work with,” Fredericks said. “I think the insurance company sent him out to try a very difficult case.” ☞